

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

C.R.P.No.5783 of 2008

O R D E R:

This Revision Petition is filed against the orders dated 3.11.2008 in I.A.No.3003 of 2008 in O.S.No.2027 of 2007 passed by the Principal Senior Civil Judge, Ranga Reddy District.

I.A.No.3003/2008 has been filed in O.S.No.2027/2007 to recall the dismissal order dated 16.11.2007. The said order dated 16.11.2007 was passed in the suit based on a memo filed. On 16.11.2007 itself, there was appearance of the respondents and on the same day a memo was filed requesting the Court to dismiss the suit as not pressed in view of the compromise.

It is the allegation of the petitioner that the said memo contains alterations and was not according to her instructions. It is the specific case of the petitioner that she has settled/entered into a compromise only with the 4th defendant and that she never instructed her counsel to withdraw the suit against all the defendants. It is her contention that the counsel appearing for her played fraud by striking out the number of defendants mentioned in the memo. It is also her contention that the words erased/struck down in the memo were not initialled by her but were initialled by her counsel. Therefore, it is her allegation that the counsel played fraud.

In reply thereto, learned counsel for the respondents filed his counter and stated that the order passed by the lower Court is correct. There was no material filed to show that any fraud was

played by the learned counsel for the appellant. He also states that memorandum of understating was entered between the parties on 20.9.2009. Therefore, it is his submission that no fraud was played by the learned counsel and that the appellant is only harassing the parties.

This Court has heard both the counsels and has seen that the impugned order. The Memorandum of compromise dated 20.9.2007 was not filed in the lower Court although it precedes the impugned memo that was filed. Even the memo that is the subject matter of dispute contains corrections and crossing outs which are not initialled by the parties. It is not clear from the available record whether the corrections were made with the consent of the appellant-plaintiff or not. No satisfactory explanation has been given for the same.

In view of the fact that valuable rights of the parties are involved and serious allegations are made against the counsel, this Court is of the opinion that the order dated 3.11.2008 in I.A.No.3003 of 2008 in O.S.No.2027 of 2007 is liable be set aside. Accordingly it is set aside but only for the limited purpose of conducting an enquiry into the allegations made in I.A.No.3003/2008. Both the parties are directed to lead oral evidence, if they so desire, to prove their respective contentions since serious allegations of fraud are made. I.A.No.3003/2008 is directed to be proceeded on priority basis. The parties are at liberty to file documents, if they so desire, to prove their contentions in I.A.No.3003/2008. The order dated 16.11.2007 is recalled only for this purpose.

With these directions, the revision petition is disposed of. No order as to costs.

Miscellaneous petitions pending, if any, in this petition shall stand closed.

D.V.S.S.SOMAYAJULU,J

Date: 08/02/2018

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